

1                                    AMENDMENT TO HOUSE BILL 2088

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2088 by replacing  
3 everything after the enacting clause with the following:

4            "Section 5. The Code of Civil Procedure is amended by  
5 changing Sections 2-1402, 12-901, 12-904, 12-906, 12-909,  
6 12-910, 12-911, 12-912, and 12-1001 as follows:

7            (735 ILCS 5/2-1402) (from Ch. 110, par. 2-1402)

8            Sec. 2-1402. Supplementary proceedings.

9            (a) A judgment creditor, or his or her successor in  
10 interest when that interest is made to appear of record, is  
11 entitled to prosecute supplementary proceedings for the  
12 purposes of examining the judgment debtor or any other person  
13 to discover assets or income of the debtor not exempt from  
14 the enforcement of the judgment, a deduction order or  
15 garnishment, and of compelling the application of non-exempt  
16 assets or income discovered toward the payment of the amount  
17 due under the judgment. A supplementary proceeding shall be  
18 commenced by the service of a citation issued by the clerk.  
19 The procedure for conducting supplementary proceedings shall  
20 be prescribed by rules. It is not a prerequisite to the  
21 commencement of a supplementary proceeding that a certified  
22 copy of the judgment has been returned wholly or partly

1 unsatisfied. All citations issued by the clerk shall have the  
 2 following language, or language substantially similar  
 3 thereto, stated prominently on the front, in capital letters:  
 4 "YOUR FAILURE TO APPEAR IN COURT AS HEREIN DIRECTED MAY CAUSE  
 5 YOU TO BE ARRESTED AND BROUGHT BEFORE THE COURT TO ANSWER TO  
 6 A CHARGE OF CONTEMPT OF COURT, WHICH MAY BE PUNISHABLE BY  
 7 IMPRISONMENT IN THE COUNTY JAIL." The court shall not grant a  
 8 continuance of the supplementary proceeding except upon good  
 9 cause shown.

10 (b) Any citation served upon a judgment debtor or any  
 11 other person shall include a certification by the attorney  
 12 for the judgment creditor or the judgment creditor setting  
 13 forth the amount of the judgment, the date of the judgment,  
 14 or its revival date, the balance due thereon, the name of the  
 15 court, and the number of the case, and a copy of the citation  
 16 notice required by this subsection. Whenever a citation is  
 17 served upon a person or party other than the judgment debtor,  
 18 the officer or person serving the citation shall send to the  
 19 judgment debtor, within three business days of the service  
 20 upon the cited party, a copy of the citation and the citation  
 21 notice, which may be sent by regular first-class mail to the  
 22 judgment debtor's last known address. In no event shall a  
 23 citation hearing be held sooner than five business days after  
 24 the mailing of the citation and citation notice to the  
 25 judgment debtor, except by agreement of the parties. The  
 26 citation notice need not be mailed to a corporation,  
 27 partnership, or association. The citation notice shall be in  
 28 substantially the following form:

29 "CITATION NOTICE

30 (Name and address of Court)

31 Name of Case: (Name of Judgment Creditor),

32 Judgment Creditor v.

33 (Name of Judgment Debtor),

34 Judgment Debtor.



1 one motor vehicle, and the debtor's equity interest, not  
2 to exceed \$1,500 \$750 in value, in any implements,  
3 professional books, or tools of the trade of the debtor.

4 (2) Under Illinois law, every person is entitled to  
5 an estate in homestead, when it is owned and occupied as  
6 a residence, to the extent in value of \$15,000 \$7,500,  
7 which homestead is exempt from judgment.

8 (3) Under Illinois law, the amount of wages that  
9 may be applied toward a judgment is limited to the lesser  
10 of (i) 15% of gross weekly wages or (ii) the amount by  
11 which disposable earnings for a week exceed the total of  
12 45 times the federal minimum hourly wage.

13 (4) Under federal law, the amount of wages that may  
14 be applied toward a judgment is limited to the lesser of  
15 (i) 25% of disposable earnings for a week or (ii) the  
16 amount by which disposable earnings for a week exceed 30  
17 times the federal minimum hourly wage.

18 (5) Pension and retirement benefits and refunds may  
19 be claimed as exempt under Illinois law.

20 The judgment debtor may have other possible exemptions  
21 under the law.

22 THE JUDGMENT DEBTOR HAS THE RIGHT AT THE CITATION HEARING  
23 TO DECLARE EXEMPT CERTAIN INCOME OR ASSETS OR BOTH. The  
24 judgment debtor also has the right to seek a declaration at  
25 an earlier date, by notifying the clerk in writing at (insert  
26 address of clerk). When so notified, the Clerk of the Court  
27 will obtain a prompt hearing date from the court and will  
28 provide the necessary forms that must be prepared by the  
29 judgment debtor or the attorney for the judgment debtor and  
30 sent to the judgment creditor and the judgment creditor's  
31 attorney regarding the time and location of the hearing.  
32 This notice may be sent by regular first class mail."

33 (c) When assets or income of the judgment debtor not  
34 exempt from the satisfaction of a judgment, a deduction order

1 or garnishment are discovered, the court may, by appropriate  
2 order or judgment:

3 (1) Compel the judgment debtor to deliver up, to be  
4 applied in satisfaction of the judgment, in whole or in  
5 part, money, choses in action, property or effects in his  
6 or her possession or control, so discovered, capable of  
7 delivery and to which his or her title or right of  
8 possession is not substantially disputed.

9 (2) Compel the judgment debtor to pay to the  
10 judgment creditor or apply on the judgment, in  
11 installments, a portion of his or her income, however or  
12 whenever earned or acquired, as the court may deem  
13 proper, having due regard for the reasonable requirements  
14 of the judgment debtor and his or her family, if  
15 dependent upon him or her, as well as any payments  
16 required to be made by prior order of court or under wage  
17 assignments outstanding; provided that the judgment  
18 debtor shall not be compelled to pay income which would  
19 be considered exempt as wages under the Wage Deduction  
20 Statute. The court may modify an order for installment  
21 payments, from time to time, upon application of either  
22 party upon notice to the other.

23 (3) Compel any person cited, other than the  
24 judgment debtor, to deliver up any assets so discovered,  
25 to be applied in satisfaction of the judgment, in whole  
26 or in part, when those assets are held under such  
27 circumstances that in an action by the judgment debtor he  
28 or she could recover them in specie or obtain a judgment  
29 for the proceeds or value thereof as for conversion or  
30 embezzlement.

31 (4) Enter any order upon or judgment against the  
32 person cited that could be entered in any garnishment  
33 proceeding.

34 (5) Compel any person cited to execute an

1 assignment of any chose in action or a conveyance of  
2 title to real or personal property, in the same manner  
3 and to the same extent as a court could do in any  
4 proceeding by a judgment creditor to enforce payment of a  
5 judgment or in aid of the enforcement of a judgment.

6 (6) Authorize the judgment creditor to maintain an  
7 action against any person or corporation that, it appears  
8 upon proof satisfactory to the court, is indebted to the  
9 judgment debtor, for the recovery of the debt, forbid the  
10 transfer or other disposition of the debt until an action  
11 can be commenced and prosecuted to judgment, direct that  
12 the papers or proof in the possession or control of the  
13 debtor and necessary in the prosecution of the action be  
14 delivered to the creditor or impounded in court, and  
15 provide for the disposition of any moneys in excess of  
16 the sum required to pay the judgment creditor's judgment  
17 and costs allowed by the court.

18 (d) No order or judgment shall be entered under  
19 subsection (c) in favor of the judgment creditor unless there  
20 appears of record a certification of mailing showing that a  
21 copy of the citation and a copy of the citation notice was  
22 mailed to the judgment debtor as required by subsection (b).

23 (e) All property ordered to be delivered up shall,  
24 except as otherwise provided in this Section, be delivered to  
25 the sheriff to be collected by the sheriff or sold at public  
26 sale and the proceeds thereof applied towards the payment of  
27 costs and the satisfaction of the judgment.

28 (f) (1) The citation may prohibit the party to whom it  
29 is directed from making or allowing any transfer or other  
30 disposition of, or interfering with, any property not  
31 exempt from the enforcement of a judgment therefrom, a  
32 deduction order or garnishment, belonging to the judgment  
33 debtor or to which he or she may be entitled or which may  
34 thereafter be acquired by or become due to him or her,

1 and from paying over or otherwise disposing of any moneys  
2 not so exempt which are due or to become due to the  
3 judgment debtor, until the further order of the court or  
4 the termination of the proceeding, whichever occurs  
5 first. The third party may not be obliged to withhold  
6 the payment of any moneys beyond double the amount of the  
7 balance due sought to be enforced by the judgment  
8 creditor. The court may punish any party who violates  
9 the restraining provision of a citation as and for a  
10 contempt, or if the party is a third party may enter  
11 judgment against him or her in the amount of the unpaid  
12 portion of the judgment and costs allowable under this  
13 Section, or in the amount of the value of the property  
14 transferred, whichever is lesser.

15 (2) The court may enjoin any person, whether or not  
16 a party to the supplementary proceeding, from making or  
17 allowing any transfer or other disposition of, or  
18 interference with, the property of the judgment debtor  
19 not exempt from the enforcement of a judgment, a  
20 deduction order or garnishment, or the property or debt  
21 not so exempt concerning which any person is required to  
22 attend and be examined until further direction in the  
23 premises. The injunction order shall remain in effect  
24 until vacated by the court or until the proceeding is  
25 terminated, whichever first occurs.

26 (g) If it appears that any property, chose in action,  
27 credit or effect discovered, or any interest therein, is  
28 claimed by any person, the court shall, as in garnishment  
29 proceedings, permit or require the claimant to appear and  
30 maintain his or her right. The rights of the person cited  
31 and the rights of any adverse claimant shall be asserted and  
32 determined pursuant to the law relating to garnishment  
33 proceedings.

34 (h) Costs in proceedings authorized by this Section

1 shall be allowed, assessed and paid in accordance with rules,  
2 provided that if the court determines, in its discretion,  
3 that costs incurred by the judgment creditor were improperly  
4 incurred, those costs shall be paid by the judgment creditor.

5 (i) This Section is in addition to and does not affect  
6 enforcement of judgments or proceedings supplementary  
7 thereto, by any other methods now or hereafter provided by  
8 law.

9 (j) This Section does not grant the power to any court  
10 to order installment or other payments from, or compel the  
11 sale, delivery, surrender, assignment or conveyance of any  
12 property exempt by statute from the enforcement of a judgment  
13 thereon, a deduction order, garnishment, attachment,  
14 sequestration, process or other levy or seizure.

15 (k) (Blank).

16 (l) At any citation hearing at which the judgment debtor  
17 appears and seeks a declaration that certain of his or her  
18 income or assets are exempt, the court shall proceed to  
19 determine whether the property which the judgment debtor  
20 declares to be exempt is exempt from judgment. At any time  
21 before the return date specified on the citation, the  
22 judgment debtor may request, in writing, a hearing to declare  
23 exempt certain income and assets by notifying the clerk of  
24 the court before that time, using forms as may be provided by  
25 the clerk of the court. The clerk of the court will obtain a  
26 prompt hearing date from the court and will provide the  
27 necessary forms that must be prepared by the judgment debtor  
28 or the attorney for the judgment debtor and sent to the  
29 judgment creditor, or the judgment creditor's attorney,  
30 regarding the time and location of the hearing. This notice  
31 may be sent by regular first class mail. At the hearing, the  
32 court shall immediately, unless for good cause shown that the  
33 hearing is to be continued, shall proceed to determine  
34 whether the property which the judgment debtor declares to be

1 exempt is exempt from judgment. The restraining provisions  
2 of subsection (f) shall not apply to any property determined  
3 by the court to be exempt.

4 (m) The judgment or balance due on the judgment becomes  
5 a lien when a citation is served in accordance with  
6 subsection (a) of this Section. The lien binds nonexempt  
7 personal property, including money, choses in action, and  
8 effects of the judgment debtor as follows:

9 (1) When the citation is directed against the  
10 judgment debtor, upon all personal property belonging to  
11 the judgment debtor in the possession or control of the  
12 judgment debtor or which may thereafter be acquired or  
13 come due to the judgment debtor to the time of the  
14 disposition of the citation.

15 (2) When the citation is directed against a third  
16 party, upon all personal property belonging to the  
17 judgment debtor in the possession or control of the third  
18 party or which thereafter may be acquired or come due the  
19 judgment debtor and comes into the possession or control  
20 of the third party to the time of the disposition of the  
21 citation.

22 The lien established under this Section does not affect  
23 the rights of citation respondents in property prior to the  
24 service of the citation upon them and does not affect the  
25 rights of bona fide purchasers or lenders without notice of  
26 the citation. The lien is effective for the period specified  
27 by Supreme Court Rule.

28 This subsection (m), as added by Public Act 88-48, is a  
29 declaration of existing law.

30 (n) If any provision of this Act or its application to  
31 any person or circumstance is held invalid, the invalidity of  
32 that provision or application does not affect the provisions  
33 or applications of the Act that can be given effect without  
34 the invalid provision or application.

1 (Source: P.A. 88-48; 88-299; 88-667, eff. 9-16-94; 88-670,  
2 eff. 12-2-94; 89-364, eff. 1-1-96.)

3 (735 ILCS 5/12-901) (from Ch. 110, par. 12-901)

4 Sec. 12-901. Amount. Every individual is entitled to an  
5 estate of homestead to the extent in value of \$15,000 \$7,500  
6 of his or her interest in a farm or lot of land and buildings  
7 thereon, a condominium, or personal property, owned or  
8 rightly possessed by lease or otherwise and occupied by him  
9 or her as a residence, or in a cooperative that owns property  
10 that the individual uses as a residence. That homestead and  
11 all right in and title to that homestead is exempt from  
12 attachment, judgment, levy, or judgment sale for the payment  
13 of his or her debts or other purposes and from the laws of  
14 conveyance, descent, and legacy, except as provided in this  
15 Code or in Section 20-6 of the Probate Act of 1975. This  
16 Section is not applicable between joint tenants or tenants in  
17 common but it is applicable as to any creditors of those  
18 persons. If 2 or more individuals own property that is exempt  
19 as a homestead, the value of the exemption of each individual  
20 may not exceed his or her proportionate share of \$30,000  
21 ~~\$15,000~~ based upon percentage of ownership.

22 (Source: P.A. 88-672, eff. 12-14-94.)

23 (735 ILCS 5/12-904) (from Ch. 110, par. 12-904)

24 Sec. 12-904. Release, waiver or conveyance. No release,  
25 waiver or conveyance of the estate so exempted shall be  
26 valid, unless the same is in writing, signed by the  
27 individual and his or her spouse, if he or she have one, or  
28 possession is abandoned or given pursuant to the conveyance;  
29 or if the exception is continued to a child or children  
30 without the order of a court directing a release thereof; but  
31 if a conveyance is made by an individual as grantor to his or  
32 her spouse, such conveyance shall be effectual to pass the

1 title expressed therein to be conveyed thereby, whether or  
2 not the grantor in such conveyance is joined therein by his  
3 or her spouse. In any case where such release, waiver or  
4 conveyance is taken by way of mortgage or security, the same  
5 shall only be operative as to such specific release, waiver  
6 or conveyance; and when the same includes different pieces of  
7 land, or the homestead is of greater value than \$15,000  
8 \$7,500, the other lands shall first be sold before resorting  
9 to the homestead, and in case of the sale of such homestead,  
10 if any balance remains after the payment of the debt and  
11 costs, such balance shall, to the extent of \$15,000 \$7,500 be  
12 exempt, and be applied upon such homestead exemption in the  
13 manner provided by law.

14 (Source: P.A. 82-783.)

15 (735 ILCS 5/12-906) (from Ch. 110, par. 12-906)

16 Sec. 12-906. Proceeds of sale. When a homestead is  
17 conveyed by the owner thereof, such conveyance shall not  
18 subject the premises to any lien or incumbrance to which it  
19 would not be subject in the possession of such owner; and the  
20 proceeds thereof, to the extent of the amount of \$15,000  
21 \$7,500, shall be exempt from judgment or other process, for  
22 one year after the receipt thereof, by the person entitled to  
23 the exemption, and if reinvested in a homestead the same  
24 shall be entitled to the same exemption as the original  
25 homestead.

26 (Source: P.A. 82-783.)

27 (735 ILCS 5/12-909) (from Ch. 110, par. 12-909)

28 Sec. 12-909. Bid for less than exempted amount. No sale  
29 shall be made of the premises on such judgment unless a  
30 greater sum than \$15,000 \$7,500 is bid therefor. If a greater  
31 sum is not so bid, the judgment may be set aside or modified,  
32 or the enforcement of the judgment released, as for lack of

1 property.

2 (Source: P.A. 82-783.)

3 (735 ILCS 5/12-910) (from Ch. 110, par. 12-910)

4 Sec. 12-910. Proceedings to enforce judgment. If in the  
5 opinion of the judgment creditors, or the officer holding a  
6 certified copy of a judgment for enforcement against such  
7 individuals, the premises claimed by him or her as exempt are  
8 worth more than \$15,000 ~~\$7,500~~, such officer shall summon 3  
9 individuals, as commissioners, who shall, upon oath, to be  
10 administered to them by the officer, appraise the premises,  
11 and if, in their opinion, the property may be divided without  
12 damage to the interest of the parties, they shall set off so  
13 much of the premises, including the dwelling house, as in  
14 their opinion is worth \$15,000 ~~\$7,500~~, and the residue of the  
15 premises may be advertised and sold by such officer. Each  
16 commissioner shall receive for his or her services the sum of  
17 \$5 per day for each day necessarily engaged in such service.  
18 The officer summoning such commissioners shall receive such  
19 fees as may be allowed for serving summons, but shall be  
20 entitled to charge mileage for only the actual distance  
21 traveled from the premises to be appraised, to the residence  
22 of the commissioners summoned. The officer shall not be  
23 required to summon commissioners until the judgment creditor,  
24 or some one for him or her, shall advance to the officer one  
25 day's fees for the commissioners, and unless the creditor  
26 shall advance such fees the officer shall not be required to  
27 enforce the judgment. The costs of such appraisal shall  
28 not be taxed against the judgment debtor unless such  
29 appraisal shows that the judgment debtor has property  
30 subject to such judgment.

31 (Source: P.A. 83-707.)

32 (735 ILCS 5/12-911) (from Ch. 110, par. 12-911)

1           Sec. 12-911. Notice to judgment debtor. In case the  
 2 value of the premises is, in the opinion of the  
 3 commissioners, more than \$15,000 \$7,500, and cannot be  
 4 divided as is provided for in Section 12-910 of this Act,  
 5 they shall make and sign an appraisal of the value thereof,  
 6 and deliver the same to the officer, who shall deliver a copy  
 7 thereof to the judgment debtor, or to some one of the family  
 8 of the age of 13 years or upwards, with a notice thereto  
 9 attached that unless the judgment debtor pays to such officer  
 10 the surplus over and above \$15,000 \$7,500 on the amount due  
 11 on the judgment within 60 days thereafter, such premises will  
 12 be sold.

13           (Source: P.A. 83-356.)

14           (735 ILCS 5/12-912) (from Ch. 110, par. 12-912)

15           Sec. 12-912. Sale of premises - Distribution of proceeds.  
 16 In case of such surplus, or the amount due on the judgment is  
 17 not paid within the 60 days, the officer may advertise and  
 18 sell the premises, and out of the proceeds of such sale pay  
 19 to such judgment debtor the sum of \$15,000 \$7,500, and apply  
 20 the balance on the judgment.

21           (Source: P.A. 82-783.)

22           (735 ILCS 5/12-1001) (from Ch. 110, par. 12-1001)

23           Sec. 12-1001. Personal property exempt. The following  
 24 personal property, owned by the debtor, is exempt from  
 25 judgment, attachment, or distress for rent:

26           (a) The necessary wearing apparel, bible, school  
 27 books, and family pictures of the debtor and the debtor's  
 28 dependents;

29           (b) The debtor's equity interest, not to exceed  
 30 \$4,000 \$2,000 in value, in any other property;

31           (c) The debtor's interest, not to exceed \$2,400  
 32 \$1,200 in value, in any one motor vehicle;

1 (d) The debtor's equity interest, not to exceed  
2 \$1,500 \$750 in value, in any implements, professional  
3 books, or tools of the trade of the debtor;

4 (e) Professionally prescribed health aids for the  
5 debtor or a dependent of the debtor;

6 (f) All proceeds payable because of the death of  
7 the insured and the aggregate net cash value of any or  
8 all life insurance and endowment policies and annuity  
9 contracts payable to a wife or husband of the insured, or  
10 to a child, parent, or other person dependent upon the  
11 insured, whether the power to change the beneficiary is  
12 reserved to the insured or not and whether the insured or  
13 the insured's estate is a contingent beneficiary or not;

14 (g) The debtor's right to receive:

15 (1) a social security benefit, unemployment  
16 compensation, or public assistance benefit;

17 (2) a veteran's benefit;

18 (3) a disability, illness, or unemployment  
19 benefit; and

20 (4) alimony, support, or separate maintenance,  
21 to the extent reasonably necessary for the support  
22 of the debtor and any dependent of the debtor.

23 (h) The debtor's right to receive, or property that  
24 is traceable to:

25 (1) an award under a crime victim's reparation  
26 law;

27 (2) a payment on account of the wrongful death  
28 of an individual of whom the debtor was a dependent,  
29 to the extent reasonably necessary for the support  
30 of the debtor;

31 (3) a payment under a life insurance contract  
32 that insured the life of an individual of whom the  
33 debtor was a dependent, to the extent reasonably  
34 necessary for the support of the debtor or a

1 dependent of the debtor;

2 (4) a payment, not to exceed \$15,000 ~~\$7,500~~ in  
3 value, on account of personal bodily injury of the  
4 debtor or an individual of whom the debtor was a  
5 dependent; and

6 (5) any restitution payments made to persons  
7 pursuant to the federal Civil Liberties Act of 1988  
8 and the Aleutian and Pribilof Island Restitution  
9 Act, P.L. 100-383.

10 For purposes of this subsection (h), a debtor's  
11 right to receive an award or payment shall be exempt for  
12 a maximum of 2 years after the debtor's right to receive  
13 the award or payment accrues; property traceable to an  
14 award or payment shall be exempt for a maximum of 5 years  
15 after the award or payment accrues; and an award or  
16 payment and property traceable to an award or payment  
17 shall be exempt only to the extent of the amount of the  
18 award or payment, without interest or appreciation from  
19 the date of the award or payment.

20 (i) The debtor's right to receive an award under  
21 Part 20 of Article II of this Code relating to crime  
22 victims' awards.

23 Money due the debtor from the sale of any personal  
24 property that was exempt from judgment, attachment, or  
25 distress for rent at the time of the sale is exempt from  
26 attachment and garnishment to the same extent that the  
27 property would be exempt had the same not been sold by the  
28 debtor.

29 If a debtor owns property exempt under this Section and  
30 he or she purchased that property with the intent of  
31 converting nonexempt property into exempt property or in  
32 fraud of his or her creditors, that property shall not be  
33 exempt from judgment, attachment, or distress for rent.  
34 Property acquired within 6 months of the filing of the

1 petition for bankruptcy shall be presumed to have been  
2 acquired in contemplation of bankruptcy.

3 The personal property exemptions set forth in this  
4 Section shall apply only to individuals and only to personal  
5 property that is used for personal rather than business  
6 purposes. The personal property exemptions set forth in this  
7 Section shall not apply to or be allowed against any money,  
8 salary, or wages due or to become due to the debtor that are  
9 required to be withheld in a wage deduction proceeding under  
10 Part 8 of this Article XII.

11 (Source: P.A. 88-378; 89-686, eff. 12-31-96.)

12 Section 99. Effective date. This Act takes effect on  
13 January 1, 2004."